

REMARKS

The Office Action dated January 4, 2006 has been carefully considered. In view of the foregoing amendments to the claims, specification and drawings, and the following remarks, it is submitted that the application is now in condition for allowance. The objections and rejections made in the Office Action are addressed in turn below.

The Office Action objected to the drawings under 37 CFR 1.83(a) for the reason that the drawings did not show every feature of the invention specified in the claims. In particular, the Office Action stated that the medical record management system, the medical record, and its associated structures, the administrator system with data receiver, data store, query module and preemptive report generator, computer, computer networks must be shown or the features should be canceled from the claims. The Office Action suggested the filing of corrected drawing sheets.

In response, applicant submits herewith an additional FIG. 4 that shows those claim elements as identified above. This Figure, submitted for the purpose of complying with 37 CFR 1.83(a), does not introduce any new matter, because all the elements in the Figure as well their relationship have been fully described in the specification. Accordingly, acceptance of FIG. 4 by the Examiner is respectfully requested.

The Office Action also objected to the specification because the disclosure on pages 59-65 referred to Tables 1-3, but the text was not in a proper table format. This rejection was caused by typographical errors, as the word "Table" should have been "Example." Applicant has made corresponding corrections in the specification. The corrections obviate the need to put any text in a table format.

The Office Action further pointed out that page 66 of the specification described Figs. 1 and 2 but did not have a description of FIG. 3. In response, applicant has added a short description of FIG. 3 to page 66, based on the description of FIG. 3 in page 62. A short description of the additional FIG. 4 listing the components of the medical record management system is also added.

Turning to the claims, claims 28-37 are currently pending. The Office Action rejected claims 28-37 under 35 U.S.C. 112, second paragraph, as being indefinite due to the lack of antecedent basis for certain elements in claims 28 and 33. Applicant has amended the claims to remove this problem.

The Office Action further rejected the claims under 35 USC 112, first paragraph, for the alleged reason that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor at the time the application was filed, had possession of the claimed invention. Contrary to the assertion in the Office Action, applicant believes that the specification of the application fully supports the claim language. In addition to the supporting disclosure on pages 17-25 as acknowledged by the Examiner, the original claims, which constitute part of the specification, fully support the claim language questioned by the Office Action. Because the features were found in the original claims, there should be no doubt that the application was in possession of the claimed invention at the time of filing. To facilitate a comparison, the following table maps the respective features to the original claims:

Claim Feature	Reference to Original Claims
A preemptive report generator	Claims 2, 5, 8
In operative interconnection with the data store	Claims 2, 5, 8 (implicit requirement)
Configured to interrogate the medical record	Claims 2, 5, 8
In accordance with prescribed instructions	Claims 2, 5, 8
To initiate report generation	Claims 2, 5, 8 (function of a "report generator")
And execution of said embedded commands	Claims 2, 5, 8
In accordance with pre-selected criteria	Claims 2, 5, 8

As to rejections based on prior art, the Office Action rejected claims 28-37 under 35 USC 103(a) as being unpatentable over Johnson et al. (WO 96/41275) in view of the prior art allegedly admitted by the applicant, Oon (WO 97/48059), and Friedman (US 6182029). As discussed below, applicant submits that the claims should be allowable over the cited references.

To facilitate the discussion, the claimed invention is briefly summarized here. The present invention is directed to the specialist area of medical records. It is based on the novel concept of embodying a patient medical record in a "medical scripting language." As recited in the claims, the patient medical records written in the medical scripting language includes script instructions, each of which embeds executable commands while at the same time

expresses the relevant medical information in accordance with predetermined syntactical and semantic constructs. By so expressing the patient medical records using a medical scripting language, this invention solves the problem of interoperability of health data amongst a plurality of computer systems, as the health expressed in the medical scripting language actually contains the instructions for operation. The pending claims are directed to an administrator system and method of its use. None of the prior art references relied upon by the Office Action teaches or suggests a medical scripting language, let alone an administration system or method configured to use records defined in a medical scripting language. As a result, none of the references, or any combination of them, could render the claimed invention obvious.

Turning to the specific grounds of rejections, as to claim 1, the Office Action asserted that Johnson discloses a medical record management system comprising an administrator system that has a data receiver, a data store, and a query module. The Office Action acknowledged that Johnson failed to teach “the medical record encoded in medical scripting language, the records stored on the basis of patient data categorized into event categories selected from the group of patient presentation data, patient test results data, patient diagnosis and medication data,” but asserted that those missing claim elements were well known as admitted by applicant’s admission on page 10, lines 22-25 and page 14, lines 16-21 of the specification. The Office Action then concluded that “it would have been obvious to one having ordinary skill in the art at the time of the invention to include medical scripting language and even categories admitted by the Applicant and disclosed in WO 97/48059 with the motivation facilitating the querying and managing of medical records.” As to independent claim 33, the Office Action indicated that this claim was rejected for the same reason given in the rejection of claim 28, because it recites a method corresponding to the system of claim 28.

Applicant respectfully submits that the rejections are not supported, because the specification does not contain any “applicant admission” regarding the medical scripting language as alleged in the Office Action. First, the Office Action stated: “On page 10, lines 22-25 of the specification, applicant admitted that the medical scripting language defined by Extended Backus Naur Format is well known as described in Programming in Modula-2” That assertion appears to be based on an incorrect reading of the specification. Specifically, the cited portion of the specification states:

The structure of medical scripting language is defined in Extended Backus Naur Format, this same EBNF format is used to express high level computer languages such as Modula (Programming in Modula-2 by Niklaus Wirth, Springer [sic] Verlag 1982) and Smalltalk (Smalltalk V, Digitalk Corporation 1992).

This statement clearly indicates that the EBNF format was known and used in other high-level computer languages, and it does not say that the medical scripting language of the invention was known or old. The EBNF is merely a generic mathematical notation, with applications in a high-level computer language. *See, e.g.*, a summary at <http://www.cl.cam.ac.uk/~mgk25/iso-ebnf.html>. It is incorrect to assert, as the Office Action did, that the medical scripting language was “known” simply because it is defined in a commonly used computer language structure format. Such an assertion is as illogical as asserting that a new book is “known” just because it is written in English, which is used in many other books.

The Office Action further stated: “On page 14, line 16-21, applicant admitted that the use of medical scripting language to encode patient record is known as described in PCT/AU97/00362.” That assertion is again based on an incorrect reading of the specification. The cited portion of the specification states:

One specialized browser for this internet health system is a known spreadsheet tool called a medical spreadsheet, which is the subject of the international patent application no. PCT/AU97/00362 filed under the heading “Iterative problem solving technique.” This medical spreadsheet tool operates on the patient file encoded in medical scripting language. This spreadsheet tool is the preferred way for updating and interacting with the MSL patient file.

This portion does not state that the medical scripting language was known or old. Rather, it was made in the context of describing that the medical scripting language of the invention can be implemented to be backwardly compatible with various browsers, including the medical spreadsheet tool described in PCT/AU97/00362. This should be clear when the cited portion is read together with the description immediately preceding it, which states:

A variety of browsers ranging from stock internet browsers to specialized medical knowledge spreadsheets to view the MSL patient file are available.” ...

P. 14, lines 5-6.

Any standard internet Mosaic browser such as Netscape or Internet Explorer will be able to view the patient file as the supervisory program comprises means to repackage the patient DocleScript ASCII text file into HTML format. ...

P. 14, lines 9-11.

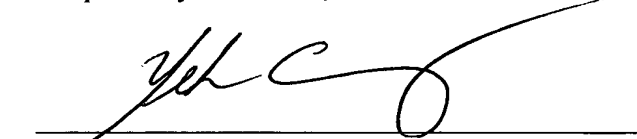
In this regard, PCT/AU97/00362, which was also by this applicant, does not teach or suggest a medical scripting language.

Thus, contrary to the assertions of the Office Action, the specification of this application does not contain any admission by the applicant that the medical scripting language of the invention was known. Since there is no such admission, and none of the other cited references teaches or suggests a medical scripting language for recording and processing patient medical information, the Section 103 rejections of the claims are not supported for at least this reason, and the claims should be allowable.

As to the Friedman reference, applicant submits that it does not appear to be a proper prior art reference under 35 U.S.C. 102(e), because its filing date is August 6, 1999, which is later than the priority date of this application, September 9, 1998. Moreover, the claims all require a preemptive report generator that executes embedded commands in the script instructions of each patient record. Since none of cited references, including Friedman, teaches or suggests the concept of presenting patient information as records written in a scripting language with embedded commands, Friedman clearly does not meet this limitation. These are additional reasons why the Section 103 rejections are not supported.

Applicant respectfully submits that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



Y. Kurt Chang, Reg. No. 41,397
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

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AMENDMENTS TO THE DRAWINGS

The new sheet attached to this paper presents additional Fig. 4. This Figure is submitted for the purpose of complying with the requirement of 37 CFR 1.83(a). In particular, the Figure is added to show the medical record management system, the medical record and its associated structures, administrator system with data receiver, data store, query module, and preemptive report generator, computer, computer networks. Because all of these elements are fully described in the specification of the application as originally filed, Fig. 4 does not contain any new matter.